

REMARKS

In the Office Action, claims 1, 7-10, 13, 14, 16-19, 21, 23-26, 29-30, 32-35, 38, and 39 were rejected and claim 31 was objected to. Claims 1, 7-10, 13, 14, 16-19, 21, 23-26, 29-35, 38, and 39 remain pending. Reconsideration and allowance of all pending claims are requested.

Rejections Under 35 U.S.C. § 102

The Examiner rejected claims 1, 7-10, 16, 17, 21, 23, 24, 29, 30, 32-35, 38 and 39 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,754,300 (the "Hsieh reference"). As a preliminary matter, Applicants note that the Hsieh reference appears to have first published on December 25, 2003. The present application was filed on February 27, 2004, i.e., less than one-year after the publication of the Hsieh reference. Therefore, the present rejection under 35 U.S.C. § 102(b) appears to be improper. Clarification of the subsection of § 102 under which the present rejection has been made is, therefore, respectfully requested.

A *prima facie* case of anticipation under 35 U.S.C. § 102 requires a showing that each limitation of a claim is found in a single reference, practice or device. *In re Donohue*, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985). In view of this binding precedent, Applicants respectfully traverse these rejections.

Independent Claims 1, 17, 23 and 29

In the present case, the Hsieh reference does not anticipate Applicants' claims under 35 U.S.C. § 102(b) because every element of the claimed invention is not shown in the Hsieh reference. For example, independent claim 1 recites that the flux of the radiation emitted by the respective emission points is determined based on at least one of the respective view relative to the field of view or a path length through a patient at the respective view. As can be appreciated by the Examiner, the system required by claim 1 adjusts for the irregular shape of a patient by varying X-ray flux based on view angle or

path length through the patient. Application, page 20, lines 1-11. Likewise, independent claims 17, 23, and 29 recite similar subject matter.

In contrast, the Hsieh reference addresses problems inherent to inverted cone geometry CT scanning. Hsieh, col. 1, lines 9-16. It discloses techniques to create a homogenous X-ray flux at the detector. Hsieh, col. 4, lines 12-13. For example, the Hsieh reference discloses “modulating a radiation source current” to create a “spatially homogenous sampling pattern.” Hsieh, col. 4, lines 19-21. The disclosed technique attempts to compensate for over-sampling at the center and under-sampling at the edges of a two-dimensional radiation source. Hsieh, col. 3, lines 55-58. The Hsieh reference does not disclose adjusting radiation flux based on a respective view angle or path length through a patient.

Furthermore, the passage relied upon by the Examiner as disclosing this recited matter does not disclose that radiation flux is adjusted based on view angle or path length through the patient. Absent some showing by the Examiner that this recited subject matter is present in the Hsieh reference, no *prima facie* case of anticipation based on the Hsieh reference exists for independent claims 1, 17, 23 and 29 or their dependent claims.

Independent Claim 30

Claim 30 recites that the X-rays emitted by each emission point pass through substantially non-overlapping regions of a field of view. In contrast, the Hsieh reference does not appear to disclose such a substantially non-overlapping configuration for each emission point. *See, for example*, Hsieh, Figs. 3 and 6-8. Instead, as depicted in the Hsieh reference, adjacent emission points appear to substantially overlap in the field of view. *Id.* Because the Hsieh reference does not show the recited subject matter, there is no *prima facie* case of anticipation for independent claim 30. Withdrawal of the rejection under 35 U.S.C. § 102 in view of Hsieh is, therefore, respectfully requested.

Rejections Under 35 U.S.C. § 103

The Examiner rejected claims 13-14, 18-19 and 25-26 under 35 U.S.C. § 103(a) as being unpatentable over the Hsieh reference. For at least the reasons noted above with regard to independent claims 1, 17 and 23, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 103(a).

Conclusion

In view of the remarks set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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